

House Bill 3050

Sponsored by Representatives MORGAN, OWENS

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits discrimination in places of public accommodation on basis of person's medical history. Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to discrimination based on medical history; amending ORS 659A.403, 659A.406, 659A.409,
3 659A.805 and 659A.885; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 659A.403 is amended to read:

6 659A.403. (1) Except as provided in subsection (2) of this section, all persons within the juris-
7 diction of this state are entitled to the full and equal accommodations, advantages, facilities and
8 privileges of any place of public accommodation, without any distinction, discrimination or re-
9 striction on account of race, color, religion, sex, sexual orientation, gender identity, national origin,
10 marital status, **medical history** or age if the individual is of age, as described in this section, or
11 older.

12 (2) Subsection (1) of this section does not prohibit:

13 (a) The enforcement of laws governing the consumption of alcoholic beverages by minors and
14 the frequenting by minors of places of public accommodation where alcoholic beverages are served;

15 (b) The enforcement of laws governing the use of marijuana items, as defined in ORS 475C.009,
16 by persons under 21 years of age and the frequenting by persons under 21 years of age of places
17 of public accommodation where marijuana items are sold; or

18 (c) The offering of special rates or services to persons 50 years of age or older.

19 (3) It is an unlawful practice for any person to deny full and equal accommodations, advantages,
20 facilities and privileges of any place of public accommodation in violation of this section.

21 (4) **For purposes of this section and ORS 659A.406 and 659A.409, medical history includes**
22 **immunization status.**

23 **SECTION 2.** ORS 659A.406 is amended to read:

24 659A.406. Except as otherwise authorized by ORS 659A.403, it is an unlawful practice for any
25 person to aid or abet any place of public accommodation, as defined in ORS 659A.400, or any em-
26 ployee or person acting on behalf of the place of public accommodation to make any distinction,
27 discrimination or restriction on account of race, color, religion, sex, sexual orientation, gender
28 identity, national origin, marital status, **medical history** or age if the individual is 18 years of age
29 or older.

30 **SECTION 3.** ORS 659A.409 is amended to read:

31 659A.409. Except as provided by laws governing the consumption of alcoholic beverages by mi-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 nors, the use of marijuana items, as defined in ORS 475C.009, by persons under 21 years of age, the
 2 frequenting by minors of places of public accommodation where alcoholic beverages are served and
 3 the frequenting by persons under 21 years of age of places of public accommodation where
 4 marijuana items are sold, and except for special rates or services offered to persons 50 years of age
 5 or older, it is an unlawful practice for any person acting on behalf of any place of public accom-
 6 modation as defined in ORS 659A.400 to publish, circulate, issue or display, or cause to be published,
 7 circulated, issued or displayed, any communication, notice, advertisement or sign of any kind to the
 8 effect that any of the accommodations, advantages, facilities, services or privileges of the place of
 9 public accommodation will be refused, withheld from or denied to, or that any discrimination will
 10 be made against, any person on account of race, color, religion, sex, sexual orientation, gender
 11 identity, national origin, marital status, **medical history** or age if the individual is of age, as de-
 12 scribed in this section, or older.

13 **SECTION 4.** ORS 659A.805 is amended to read:

14 659A.805. (1) In accordance with any applicable provision of ORS chapter 183, the Commissioner
 15 of the Bureau of Labor and Industries may adopt reasonable rules:

16 (a) Establishing what acts and communications constitute a notice, sign or advertisement that
 17 public accommodation or real property will be refused, withheld from, or denied to any person or
 18 that the person will be unlawfully discriminated against because of race, color, religion, sex, sexual
 19 orientation, gender identity, national origin, marital status, disability or:

20 (A) With respect to public accommodation, age **or medical history**.

21 (B) With respect to real property transactions, familial status or source of income.

22 (b) Establishing what inquiries in connection with employment and prospective employment ex-
 23 press a limitation, specification or unlawful discrimination as to race, color, religion, sex, sexual
 24 orientation, gender identity, national origin, marital status, age or disability.

25 (c) Establishing what inquiries in connection with employment and prospective employment so-
 26 liciting information as to race, color, religion, sex, sexual orientation, gender identity, national ori-
 27 gin, marital status, age or disability are based on bona fide occupational qualifications.

28 (d) For internal operation and practice and procedure before the commissioner under this
 29 chapter.

30 (e) Covering any other matter required to carry out the purposes of this chapter.

31 (2) In adopting rules under this section the commissioner shall consider the following factors,
 32 among others:

33 (a) The relevance of information requested to job performance in connection with which it is
 34 requested.

35 (b) Available reasonable alternative ways of obtaining requested information without soliciting
 36 responses as to race, color, religion, sex, sexual orientation, gender identity, national origin, marital
 37 status, age, disability, source of income or, with respect to real property transactions, familial sta-
 38 tus.

39 (c) Whether a statement or inquiry soliciting information as to race, color, religion, sex, sexual
 40 orientation, gender identity, national origin, marital status, age, disability, source of income or, with
 41 respect to real property transactions, familial status, communicates an idea independent of an in-
 42 tention to limit, specify or unlawfully discriminate as to race, color, religion, sex, sexual orientation,
 43 gender identity, national origin, marital status, age, disability, source of income or, with respect to
 44 real property transactions, familial status.

45 (d) Whether the independent idea communicated is relevant to a legitimate objective of the kind

1 of transaction that it contemplates.

2 (e) The ease with which the independent idea relating to a legitimate objective of the kind of
 3 transaction contemplated could be communicated without connoting an intention to unlawfully dis-
 4 criminate as to race, color, religion, sex, sexual orientation, gender identity, national origin, marital
 5 status, age, disability, source of income or, with respect to real property transactions, familial sta-
 6 tus.

7 **SECTION 5.** ORS 659A.885, as amended by section 7, chapter 99, Oregon Laws 2022, is amended
 8 to read:

9 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-
 10 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
 11 the court may order injunctive relief and any other equitable relief that may be appropriate, in-
 12 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A
 13 court may order back pay in an action under this subsection only for the two-year period imme-
 14 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau
 15 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-
 16 year period immediately preceding the filing of the action. In any action under this subsection, the
 17 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-
 18 cept as provided in subsection (3) of this section:

19 (a) The judge shall determine the facts in an action under this subsection; and

20 (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall
 21 review the judgment pursuant to the standard established by ORS 19.415 (3).

22 (2) An action may be brought under subsection (1) of this section alleging a violation of:

23 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475C.285, 476.574,
 24 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 659.852,
 25 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to
 26 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228,
 27 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306,
 28 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.370 or 659A.421 or section 5,
 29 chapter 99, Oregon Laws 2022; or

30 (b) ORS 653.470, except an action may not be brought for a claim relating to ORS 653.450.

31 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
 32 243.323, 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069,
 33 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262,
 34 659A.290, 659A.318, 659A.343, 659A.355, 659A.370 or 659A.421:

35 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
 36 compensatory damages or \$200, whichever is greater, and punitive damages;

37 (b) At the request of any party, the action shall be tried to a jury;

38 (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-
 39 ment pursuant to the standard established by ORS 19.415 (1); and

40 (d) Any attorney fee agreement shall be subject to approval by the court.

41 (4) Notwithstanding ORS 31.730, in an action under subsection (1) of this section alleging a vi-
 42 olation of ORS 652.220, the court may award punitive damages if:

43 (a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted
 44 with malice or acted with willful and wanton misconduct; or

45 (b) An employer was previously adjudicated in a proceeding under this section or under ORS

1 659A.850 for a violation of ORS 652.220.

2 (5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or
 3 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this sec-
 4 tion, compensatory damages or \$200, whichever is greater.

5 (6) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574
 6 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this
 7 section, compensatory damages or \$250, whichever is greater.

8 (7) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092,
 9 the court may award, in addition to the relief authorized under subsection (1) of this section, a civil
 10 penalty in the amount of \$720.

11 (8) Any individual against whom any distinction, discrimination or restriction on account of
 12 race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, **medical**
 13 **history** or age, if the individual is 18 years of age or older, has been made by any place of public
 14 accommodation, as defined in ORS 659A.400, by any employee or person acting on behalf of the place
 15 or by any person aiding or abetting the place or person in violation of ORS 659A.406 may bring an
 16 action against the operator or manager of the place, the employee or person acting on behalf of the
 17 place or the aider or abettor of the place or person. Notwithstanding subsection (1) of this section,
 18 in an action under this subsection:

19 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
 20 compensatory and punitive damages;

21 (b) The operator or manager of the place of public accommodation, the employee or person
 22 acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all
 23 damages awarded in the action;

24 (c) At the request of any party, the action shall be tried to a jury;

25 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

26 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-
 27 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
 28 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;
 29 and

30 (f) Upon any appeal of a judgment under this subsection, the appellate court shall review the
 31 judgment pursuant to the standard established by ORS 19.415 (1).

32 (9) When the commissioner or the Attorney General has reasonable cause to believe that a
 33 person or group of persons is engaged in a pattern or practice of resistance to the rights protected
 34 by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied
 35 any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner
 36 or the Attorney General may file a civil action on behalf of the aggrieved persons in the same
 37 manner as a person or group of persons may file a civil action under this section. In a civil action
 38 filed under this subsection, the court may assess against the respondent, in addition to the relief
 39 authorized under subsections (1) and (3) of this section, a civil penalty:

40 (a) In an amount not exceeding \$50,000 for a first violation; and

41 (b) In an amount not exceeding \$100,000 for any subsequent violation.

42 (10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or
 43 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
 44 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to
 45 the commissioner if the commissioner prevails in the action. The court may award reasonable at-

1 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
 2 determines that the commissioner had no objectively reasonable basis for asserting the claim or for
 3 appealing an adverse decision of the trial court.

4 (11) In an action under subsection (1) or (9) of this section alleging a violation of ORS 659A.145
 5 or 659A.421 or discrimination under federal housing law:

6 (a) “Aggrieved person” includes a person who believes that the person:

7 (A) Has been injured by an unlawful practice or discriminatory housing practice; or

8 (B) Will be injured by an unlawful practice or discriminatory housing practice that is about to
 9 occur.

10 (b) An aggrieved person in regard to issues to be determined in an action may intervene as of
 11 right in the action. The Attorney General may intervene in the action if the Attorney General cer-
 12 tifies that the case is of general public importance. The court may allow an intervenor prevailing
 13 party costs and reasonable attorney fees at trial and on appeal.

14 **SECTION 6.** ORS 659A.885, as amended by section 10, chapter 197, Oregon Laws 2017, section
 15 6, chapter 139, Oregon Laws 2019, section 8, chapter 343, Oregon Laws 2019, section 8, chapter 463,
 16 Oregon Laws 2019, section 13, chapter 701, Oregon Laws 2019, section 45, chapter 367, Oregon Laws
 17 2021, and section 8, chapter 99, Oregon Laws 2022, is amended to read:

18 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-
 19 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
 20 the court may order injunctive relief and any other equitable relief that may be appropriate, in-
 21 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A
 22 court may order back pay in an action under this subsection only for the two-year period imme-
 23 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau
 24 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-
 25 year period immediately preceding the filing of the action. In any action under this subsection, the
 26 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-
 27 cept as provided in subsection (3) of this section:

28 (a) The judge shall determine the facts in an action under this subsection; and

29 (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall
 30 review the judgment pursuant to the standard established by ORS 19.415 (3).

31 (2) An action may be brought under subsection (1) of this section alleging a violation of:

32 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475C.285, 476.574,
 33 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 659.852,
 34 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to
 35 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228,
 36 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306,
 37 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421 or sec-
 38 tion 5, chapter 99, Oregon Laws 2022; or

39 (b) ORS 653.470, except an action may not be brought for a claim relating to ORS 653.450.

40 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
 41 243.323, 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069,
 42 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262,
 43 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421:

44 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
 45 compensatory damages or \$200, whichever is greater, and punitive damages;

1 (b) At the request of any party, the action shall be tried to a jury;

2 (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-
3 ment pursuant to the standard established by ORS 19.415 (1); and

4 (d) Any attorney fee agreement shall be subject to approval by the court.

5 (4) Notwithstanding ORS 31.730, in an action under subsection (1) of this section alleging a vi-
6 olation of ORS 652.220, the court may award punitive damages if:

7 (a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted
8 with malice or acted with willful and wanton misconduct; or

9 (b) An employer was previously adjudicated in a proceeding under this section or under ORS
10 659A.850 for a violation of ORS 652.220.

11 (5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or
12 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this sec-
13 tion, compensatory damages or \$200, whichever is greater.

14 (6) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574
15 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this
16 section, compensatory damages or \$250, whichever is greater.

17 (7) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092,
18 the court may award, in addition to the relief authorized under subsection (1) of this section, a civil
19 penalty in the amount of \$720.

20 (8) Any individual against whom any distinction, discrimination or restriction on account of
21 race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, **medical**
22 **history** or age, if the individual is 18 years of age or older, has been made by any place of public
23 accommodation, as defined in ORS 659A.400, by any employee or person acting on behalf of the place
24 or by any person aiding or abetting the place or person in violation of ORS 659A.406 may bring an
25 action against the operator or manager of the place, the employee or person acting on behalf of the
26 place or the aider or abettor of the place or person. Notwithstanding subsection (1) of this section,
27 in an action under this subsection:

28 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
29 compensatory and punitive damages;

30 (b) The operator or manager of the place of public accommodation, the employee or person
31 acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all
32 damages awarded in the action;

33 (c) At the request of any party, the action shall be tried to a jury;

34 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

35 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-
36 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
37 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;
38 and

39 (f) Upon any appeal of a judgment under this subsection, the appellate court shall review the
40 judgment pursuant to the standard established by ORS 19.415 (1).

41 (9) When the commissioner or the Attorney General has reasonable cause to believe that a
42 person or group of persons is engaged in a pattern or practice of resistance to the rights protected
43 by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied
44 any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner
45 or the Attorney General may file a civil action on behalf of the aggrieved persons in the same

1 manner as a person or group of persons may file a civil action under this section. In a civil action
 2 filed under this subsection, the court may assess against the respondent, in addition to the relief
 3 authorized under subsections (1) and (3) of this section, a civil penalty:

4 (a) In an amount not exceeding \$50,000 for a first violation; and

5 (b) In an amount not exceeding \$100,000 for any subsequent violation.

6 (10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or
 7 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
 8 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to
 9 the commissioner if the commissioner prevails in the action. The court may award reasonable at-
 10 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
 11 determines that the commissioner had no objectively reasonable basis for asserting the claim or for
 12 appealing an adverse decision of the trial court.

13 (11) In an action under subsection (1) or (9) of this section alleging a violation of ORS 659A.145
 14 or 659A.421 or discrimination under federal housing law:

15 (a) "Aggrieved person" includes a person who believes that the person:

16 (A) Has been injured by an unlawful practice or discriminatory housing practice; or

17 (B) Will be injured by an unlawful practice or discriminatory housing practice that is about to
 18 occur.

19 (b) An aggrieved person in regard to issues to be determined in an action may intervene as of
 20 right in the action. The Attorney General may intervene in the action if the Attorney General cer-
 21 tifies that the case is of general public importance. The court may allow an intervenor prevailing
 22 party costs and reasonable attorney fees at trial and on appeal.

23 **SECTION 7.** ORS 659A.885, as amended by section 10, chapter 197, Oregon Laws 2017, section
 24 6, chapter 139, Oregon Laws 2019, section 8, chapter 343, Oregon Laws 2019, section 8, chapter 463,
 25 Oregon Laws 2019, section 58, chapter 700, Oregon Laws 2019, section 13, chapter 701, Oregon Laws
 26 2019, section 46, chapter 367, Oregon Laws 2021, and section 9, chapter 99, Oregon Laws 2022, is
 27 amended to read:

28 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-
 29 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
 30 the court may order injunctive relief and any other equitable relief that may be appropriate, in-
 31 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A
 32 court may order back pay in an action under this subsection only for the two-year period imme-
 33 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau
 34 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-
 35 year period immediately preceding the filing of the action. In any action under this subsection, the
 36 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-
 37 cept as provided in subsection (3) of this section:

38 (a) The judge shall determine the facts in an action under this subsection; and

39 (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall
 40 review the judgment pursuant to the standard established by ORS 19.415 (3).

41 (2) An action may be brought under subsection (1) of this section alleging a violation of:

42 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475C.285, 476.574,
 43 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 657B.060 and
 44 657B.070, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088,
 45 659A.103 to 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218,

1 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300,
2 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.357, 659A.370 or
3 659A.421 or section 5, chapter 99, Oregon Laws 2022; or

4 (b) ORS 653.470, except an action may not be brought for a claim relating to ORS 653.450.

5 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
6 243.323, 652.220, 652.355, 653.547, 653.549, 657B.060 and 657B.070, 659.852, 659A.030, 659A.040,
7 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228,
8 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or
9 659A.421:

10 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
11 compensatory damages or \$200, whichever is greater, and punitive damages;

12 (b) At the request of any party, the action shall be tried to a jury;

13 (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-
14 ment pursuant to the standard established by ORS 19.415 (1); and

15 (d) Any attorney fee agreement shall be subject to approval by the court.

16 (4) Notwithstanding ORS 31.730, in an action under subsection (1) of this section alleging a vi-
17 olation of ORS 652.220, the court may award punitive damages if:

18 (a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted
19 with malice or acted with willful and wanton misconduct; or

20 (b) An employer was previously adjudicated in a proceeding under this section or under ORS
21 659A.850 for a violation of ORS 652.220.

22 (5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or
23 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this sec-
24 tion, compensatory damages or \$200, whichever is greater.

25 (6) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574
26 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this
27 section, compensatory damages or \$250, whichever is greater.

28 (7) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092,
29 the court may award, in addition to the relief authorized under subsection (1) of this section, a civil
30 penalty in the amount of \$720.

31 (8) Any individual against whom any distinction, discrimination or restriction on account of
32 race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, **medical**
33 **history** or age, if the individual is 18 years of age or older, has been made by any place of public
34 accommodation, as defined in ORS 659A.400, by any employee or person acting on behalf of the place
35 or by any person aiding or abetting the place or person in violation of ORS 659A.406 may bring an
36 action against the operator or manager of the place, the employee or person acting on behalf of the
37 place or the aider or abettor of the place or person. Notwithstanding subsection (1) of this section,
38 in an action under this subsection:

39 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
40 compensatory and punitive damages;

41 (b) The operator or manager of the place of public accommodation, the employee or person
42 acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all
43 damages awarded in the action;

44 (c) At the request of any party, the action shall be tried to a jury;

45 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

1 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-
 2 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
 3 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;
 4 and

5 (f) Upon any appeal of a judgment under this subsection, the appellate court shall review the
 6 judgment pursuant to the standard established by ORS 19.415 (1).

7 (9) When the commissioner or the Attorney General has reasonable cause to believe that a
 8 person or group of persons is engaged in a pattern or practice of resistance to the rights protected
 9 by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied
 10 any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner
 11 or the Attorney General may file a civil action on behalf of the aggrieved persons in the same
 12 manner as a person or group of persons may file a civil action under this section. In a civil action
 13 filed under this subsection, the court may assess against the respondent, in addition to the relief
 14 authorized under subsections (1) and (3) of this section, a civil penalty:

15 (a) In an amount not exceeding \$50,000 for a first violation; and

16 (b) In an amount not exceeding \$100,000 for any subsequent violation.

17 (10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or
 18 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
 19 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to
 20 the commissioner if the commissioner prevails in the action. The court may award reasonable at-
 21 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
 22 determines that the commissioner had no objectively reasonable basis for asserting the claim or for
 23 appealing an adverse decision of the trial court.

24 (11) In an action under subsection (1) or (9) of this section alleging a violation of ORS 659A.145
 25 or 659A.421 or discrimination under federal housing law:

26 (a) "Aggrieved person" includes a person who believes that the person:

27 (A) Has been injured by an unlawful practice or discriminatory housing practice; or

28 (B) Will be injured by an unlawful practice or discriminatory housing practice that is about to
 29 occur.

30 (b) An aggrieved person in regard to issues to be determined in an action may intervene as of
 31 right in the action. The Attorney General may intervene in the action if the Attorney General cer-
 32 tifies that the case is of general public importance. The court may allow an intervenor prevailing
 33 party costs and reasonable attorney fees at trial and on appeal.

34 **SECTION 8. This 2023 Act takes effect on the 91st day after the date on which the 2023**
 35 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

36